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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,348	02/21/2001	Won-Woo Lee	P56299	1062

7590 08/28/2002  
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Washington, DC 20005

EXAMINER

BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 08/28/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/788,348

Applicant(s)

LEE ET AL.

Examiner

Drew E Becker

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 27-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-38, 40, 42-45, 47, 49-54 and 56-60 is/are rejected.
- 7) ☒ Claim(s) 39, 41, 46, 48, 55 and 61 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of claims 27-61 in Paper No. 4 is acknowledged. The traversal is on the ground(s) that there is no search burden since "any references describing the method will inherently describe the apparatus". This is not found persuasive because, as explained in paper no. 3, the two groups are classified in separate classes and would require separate searches. In addition the non-elected apparatus claims require nozzles, while the elected method claims do not require nozzles as evidenced by the JP 04-020716 reference.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 31, 34-35, 49-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 1761

4. Claim 31 recites "a characteristic removing a food aroma". It is not clear what this "characteristic" is.

5. Claim 34 recites "a first passageway" on lines 4 and 6. It is not clear whether these are same "passageway".

6. Claim 49 recites "said step of diffusing said second aroma comprising... to diffuse said third aroma". It is not clear whether the second and third aromas are different, or merely the same aroma. Also, there is insufficient antecedent basis for "said third aroma" in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 27-28, 30, 32, 36, and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by MacLean IV [Pat. No. 5,771,778].

MacLean IV teaches a method of cooking comprising making a selection from a menu (column 9, lines 11-20), generating an aroma corresponding to that food and continuing diffusion of the aroma after it has been cooked (column 8, line 25), diffusing the aroma before cooking (column 9, line 25), an aroma storage unit with an aroma substance (column 4, lines 55-67), and a nozzle (column 4, line 67).

Art Unit: 1761

9. Claims 27, 36, 42, and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 04-020716.

JP 04-020716 teaches method of cooking by making a selection of a food and generating an aroma during cooking which is diffused within the cooking chamber (page 7), and deodorizing the aroma by filtration (page 8, last paragraph).

10. Claims 27-32 and 34-38 are rejected under 35 U.S.C. 102(b) as being anticipated by FR 2,175,345.

FR 2,175,345 teaches a method of cooking by inherently making a selection of a food to be cooked (page 4, final line), generating a smoke aroma which impregnates the food and replaces the natural aroma (page 2, last paragraph), loading the oven while the smoke is being produced (page 6, line 4), inherently extinguishing the fire after cooking has been completed, an aroma storage unit in a parts chamber which also held the wood (Figure 1, 1), a cooking chamber (Figure 1, 11), releasing smoke through a vent passageway (Figure 1, 18), releasing smoke through a second passageway to the cooking chamber (Figure 1, 14), inherently selecting the amount of wood, and opening a nozzle (Figure 1, 19).

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 33-35, 40, and 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacLean IV as applied above, in view of Watkins [Pat. No. 5,591,409].

MacLean IV teaches the above mentioned concepts as well as a cooking chamber (Figure 1, 48), a parts chamber (Figure 2, 42), dispersing the aroma outside of the device as well as in the cooking chamber (column 5, line 29), the aerosol nozzle inherently being rotatable (column 4, line 67). MacLean IV does not teach plural aroma storage units and mixing the aromas, providing the aroma storage unit in the parts chamber with passageways out of it, and plural nozzles. Watkins teaches a method of providing aromas comprising plural aroma storage units and mixing of the aromas (Figure 1, 5; column 4, lines 35-44), providing the aroma storage unit in the parts chamber with passageways out of the parts chamber (Figure 1, 7 & 9), and multiple nozzles (Figure 1, 8). It would have been obvious to one of ordinary skill in the art to incorporate the multiple aroma sources, mixing, passageways, and nozzles of Watkins into the invention of MacLean IV since both are directed to aroma generating methods, since MacLean IV already teaches the use of a "solenoid which periodically acts to depress the nozzle/actuator of an aerosol can" (column 4, line 66), since the plural aroma sources and nozzles of Watkins are in the form of aerosol cans with nozzles which are depressed by solenoids (Figure 1, 5 & 8), and since mixing of aroma would have provided more accurate aromas as well as a greater variety of aromas. It would have been obvious to one of ordinary skill in the art to place the aroma sources of MacLean IV in the parts chamber, in view of Watkins, since both are directed to aroma

Art Unit: 1761

generating methods, since MacLean IV already teaches a parts chamber (Figure 2, 42), and since placing the aroma source in the parts chamber, away from the cooking chamber, would have prevented the overheating and possible explosion of the aerosol cans used by MacLean IV while still providing the necessary aromas.

13. Claims 42-43 and 56-57 rejected under 35 U.S.C. 103(a) as being unpatentable over MacLean IV as applied above, in view of Burns [Pat. No. 5,062,272].

MacLean IV teaches the above mentioned concepts. MacLean IV does not teach deodorizing an aroma by producing and diffusing a second aroma. Burns teaches a method of deodorizing a food handling device by removing an unwanted odor and replacing it with a fruit scent (column 2, lines 30-48). It would have been obvious to one of ordinary skill in the art to deodorizing and scent replacement of Burns into the invention of MacLean IV since both are directed to aroma generating methods, since MacLean IV already included the production and dispersion of scents (column 4, lines 55-68), and since consumers have different tastes and preferences for aromas and their interest can be increased by substituting a more pleasing aroma for the original.

14. Claims 44-45, 47, 49-50, and 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacLean IV, in view of Burns, as applied above, and further in view of Watkins.

MacLean IV, Burns, and Watkins teach the above mentioned concepts. MacLean IV, Burns, and Watkins are combined for the above mentioned reasons and since all are directed to methods of generating and diffusing aromas.

***Allowable Subject Matter***

15. Claims 39, 41, 46, 48, 55, and 61 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. The following is a statement of reasons for the indication of allowable subject matter: the method of dependent claims 39, 41, 46, 48, 55, and 61 define over the prior art of record since the prior art of record does not teach, suggest, nor render obvious the step of moving a piston to open said first nozzle and close a second nozzle.

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Giles Sr et al [Pat. No. 4,902,316], Hamilton [Pat. No. 5,314,669], Christensen [Pat. No. 5,651,942], WO 99/38102, and ZA 9711277A teach aroma emitting methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.



Application/Control Number: 09/788,348

Page 8

Art Unit: 1761

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

A handwritten signature in black ink, appearing to read "Drew Becker". The signature is fluid and cursive, with a long horizontal stroke at the end.

Drew Becker  
August 19, 2002